

North Smithfield Zoning Board

May 20, 2008

Kendall Dean School

83 Greene Street, Slatersville, RI

The Vice Chair called the meeting to order at 7:00 pm.

I. Roll call: Present: Bill Juhr, Dean Naylor, Vice Chair Steven Scarpelli, Guy Denizard, Stephen Kearns, and Mario DiNunzio. Also present were Building Official Bob Benoit, Assistant Solicitor Bob Rossi, and court stenographer Shelly Deming from Allied Court Reporters. Absent: Chair Vincent Marcantonio

II. Approval of Minutes--April 8 & 16, 2008

Mr. Kearns made a motion to approve the minutes of April 8, 2008. The motion was seconded by Mr. Juhr, with all in favor.

Mr. Denizard made a motion to approve the minutes of April 16, 2008. The motion was seconded by Mr. Kearns, with all in favor.

II. Application of Melissa Raymond, requesting a Special Use Permit, per section 4.1, for addition onto existing structure. Locus is 24 Summit Ave., Plat 9, Lot 534.

The Vice Chair stated that Mr. DiNunzio will be voting in place of Mr.

Marcantonio on this application. Mr. DiNunzio recused himself because his relative is an abutter to the property. The Vice Chair stated that Mr. Naylor will vote on the application.

Attorney Nicole Barnes addressed the Board, stating that the applicant is seeking a special use permit under section 4.1. Because the lot is a non-conforming lot of record, the addition requires a special use permit. Ms. Barnes reviewed the request to build a 370 sq. ft. addition, which will include a bedroom and bathroom. She submitted a Zoning Narrative to the Board, which was marked as exhibit P1. Mr. Kearns asked that the applicant submit as much information prior to the night of the meeting, in order to provide the Board with enough time to adequately review the request. Ms. Barnes stated that the narrative includes information previously submitted, but it serves as a summary of the lot and why it requires a special use permit. She stated that it is just a supplement to the information previously submitted.

Melissa Raymond was sworn in by the stenographer. She explained the request for an addition to her home, which has 2 existing bedrooms and 1 existing bathroom. Municipal sewer and water are present at the site. The Planning Board has recommended favorably on the application. Mr. Scarpelli read a memorandum from the Town Planner into the record and labeled it exhibit P2. Ms. Raymond summarized the current setbacks and the remaining setbacks, if the application is approved. Mr. Kearns asked about available parking on

the property. Ms. Raymond responded that there is a long driveway, on which 3-4 cars could fit.

Claire O' Hara was present to speak in favor of application. Mrs. O'Hara was sworn in by stenographer. She stated that she is an abutter directly to the side of Ms. Raymond's property. She asked the Board to approve the application, stating that this would not hinder or deface the neighborhood. She stated that the applicant has a wonderful family and is taking in her mother. The addition would allow her mother to stay on one floor of the residence. Mrs. O'Hara also stated that she would not support the application if it would take away from neighborhood. Mr. Kearns asked if any other houses in the neighborhood have added additions. Mrs. O'Hara stated that some others have built up, but Ms. Raymond needs the addition on one floor for her elderly mother.

Paul Zwolenski was sworn in by stenographer. He also spoke in favor of the application. He said that in-law apartments are allowed within zoning. He added that the addition is a good thing, and no neighbors are present at the meeting to speak against it.

Mr. Scarpelli asked if the audience if anyone was present to speak against the application, but there were not.

Mr. Scarpelli entered the locus plan as exhibit P3, and the application, including copies of the proposed elevations of the addition as exhibit

P4. Ms. Barnes summarized request, stating there is adequate access, parking, town water and sewer, sufficient yard, and compatibility with the surrounding neighborhood.

Mr. Scarpelli made a motion to approve the application of Melissa Raymond, requesting a Special Use Permit, per section 4.1, for addition onto existing structure. Locus is 24 Summit Ave., Plat 9, Lot 534. Mr. Kearns seconded the motion. Roll call vote was as follows: AYE: Mr. Juhr, Mr. Kearns, Mr. Denizard, Mr. Naylor, Mr. Scarpelli. Motion passed, with a vote of 5-0. The application was approved.

III. Application of 146 Investment Partners, LLC, requesting a Special Use Permit, per section 5.4.5 (12), for “outdoor commercial recreation.” Locus is 408 Eddie Dowling Highway, Plat 13, Lots 22 & 150.

The Vice Chair stated that Mr. DiNunzio will be voting on this application in place of Chair Vincent Marcantonio.

Tom Marsella was sworn in by stenographer and addressed the Board. Mr. Marsella is the owner of the property and senior partner of 146 Investment Partners, LLC. He provided a summary of his request. He stated that he has been approached by a number of potential tenants regarding outdoor activity at his property. He has submitted a list of all the potential uses of the property. He is trying to find out what uses would be allowed, so he can respond to

potential tenants. He would like to seek approval from the Zoning Board on the uses, under 17.3.2, before spending the money on engineered plans for each item on the list. The list includes such uses as paintball, miniature golf, driving range, batting cages, along with many others.

Mr. Marsella stated that he originally thought the uses were allowed under the building use permit. He added that activities involving motor cross are no longer being considered. He stated that of the activities on the submitted list, 99% of items requested by potential tenants, but no one has been given permission yet. He stated that the paintball field is his, but does not include any buildings. He thought it was permitted under his indoor recreation permit. Mr. Marsella stated that he is trying to get guidance before making plans and hiring engineers.

Mr. Scarpelli asked about the capacity of building. Mr. Marsella answered that it is probably about 150-200 people, but he is not sure. Currently the building is used for such businesses as a pizzeria, arcade, laser tag, gymnastics, preschool, cheerleading, dance school, and sporting goods store. He would like to extend the family activities to the outdoor property.

Mr. Jühr asked what the applicant was granted last time they came before Zoning Board, because he believes they said no to all outdoor activity. Mr. Denizard stated that he had visited the property and saw

a lot of work being done outside. Mr. Marsella stated that the paintball is not open to public. He said that no buildings have been added, and no wetlands have been touched. Mr. Juhz asked if Mr. Marsella had any documentation of previous permission granted by the Zoning Board for indoor recreation. Mr. Marsella stated that he did not have a copy of the decision with him.

Mr. Kearns stated that the Board only has a radius map, with no other details of impacts, layout, or details of activities. Mr. Marsella said that no leases have been approved. He had asked Mr. Benoit how to go about finding out what was allowed, and he is here to try to find out what might be approved before approving leases and spending money on engineering.

Mr. Denizard stated that he had visited the site a few times this week and thinks they are over capacity for the ISDS system. Mr. Rossi stated that the Board is not advisory, and should only act on the applicant's request. Mr. Juhz stated that they have not been given enough information. He stated that the only materials submitted were the application and a "wish list" of activities. Mr. Marsella responded that yes, it is a "wish list." He is trying to figure out where to go to find out what businesses will be let in to business highway zone for a family fun center and what will be entailed in bringing these businesses in. He stated that because of the seasonality of activities, the traffic will remain the same as it is now. In the summer people will play paintball rather than laser tag. Mr. Benoit stated that the

applicant is before the Board because all outdoor recreation activities require a special use permit. Mr. Juhr stated that they have not been given any details on the activities. Mr. Marsella stated that site plans and blueprints cost a great deal of money, so he is trying to find out what might be allowed before going to that expense.

Mr. Kearns asked if there were site plans completed for the current building and its uses, including a traffic study. Mr. Marsella stated that they were done; he thought they were on record from the previous hearing and did not resubmit them. He added that the site would bring in much less traffic than Dowling Village. Mr. Juhr stated that Mr. Marsella needs to have a business plan in place in order for the Board to completely review the request. Mr. Kearns added that section 9.2 of the Zoning Ordinance outlines specific items for review on special use permits. There are new Board members since Mr. Marsella's previous request, and there is just no evidence present to review.

Mr. DiNunzio stated that the Board is bound by procedures for review and it is hard to tell for what exactly they are applying. The Board cannot just approve all the activities on the list without further evidence presented. He added that the vehicle for advice is not a special use permit application. Mr. Marsella stated that he thought this was the proper procedure. He had previously appeared before the Planning Board and a memorandum should have been submitted by the Town Planner. Mr. Scarpelli stated that the Board had just

received the memorandum before this meeting and read it into the record (labeled exhibit P1).

Mr. Denizard questioned the sanitary facilities on the site. Mr. Marsella stated that outhouses that are delivered and picked up would be used for the paintball area. Mr. Denizard stated that just because it is located in a business highway zone, does not mean that all activities are permitted. He stated that the neighbors are still due respect and that outhouses can smell and cause problems for neighbors. Mr. Marsella said he is concerned for the neighbors, which is why he abandoned his request for motorized vehicle activities. He stated that he originally proposed those activities because he has illegal riders using the property every day and wanted to regulate the use by providing a legitimate track.

Mr. Kearns stated that the application is incomplete and the Board cannot evaluate the request under section 9.2. Mr. Jühr and Mr. DiNunzio agreed that there is not enough information to evaluate the request. Mr. Naylor stated that he understands what Mr. Marsella is asking for, but the Zoning Board cannot act as an advisory board. He stated that the Board can either act on the request for the special use permit or the applicant can ask that the application be continued in order to collect evidence that will address the requirements of section 9.2 of the zoning ordinance. Mr. Naylor added that Mr. Marsella could also come back with documentation to better present the case and clear up the obscurity of the request by detailing exactly which

activities are being requested.

Mr. Juhr stated that the Board has received correspondence from the Conservation Commission. Mr. Scarpelli entered this letter into the record as exhibit P2. Mr. Juhr asked that a copy of the letter be given to the applicant.

Mr. Kearns made a motion to continue the application to a date certain. The Board discussed a date for the continuance. They suggested June 17, 2008. Attorney Aram Jarret, representing Virginia Desaulnier of 650 Old Smithfield Road, who is against the application, stated that he will not be available that day. The Board discussed other possible dates. Mr. Scarpelli made a motion to deny the application. Mr. Rossi reminded the Board that there was already a motion open. Mr. Kearns rescinded his motion to continue the application. Mr. Denizard seconded Mr. Scarpelli's motion to deny the application of 146 Investment Partners, LLC, requesting a Special Use Permit, per section 5.4.5 (12), for "outdoor commercial recreation," located at 408 Eddie Dowling Highway, Plat 13, Lots 22 & 150. Roll call vote was as follows: AYE: Mr. Juhr, Mr. Kearns, Mr. Denizard, Mr. DiNunzio, Mr. Scarpelli. Motion passed, with a vote of 5-0. The application was denied.

Mr. Scarpelli made a motion to adjourn at 8:00 pm. Mr. Kearns seconded the motion, with all in favor.